wade college
founded 1962

COPYRIGHT MANUAL

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GENERAL COPYRIGHT POLICY

Wade College respects the intellectual property rights of others and expects students, faculty, and staff to do so as well. It is the policy of Wade College to comply with the *United States Copyright Act of 1976* and the *Digital Millennium Copyright Act of 1998* (hereinafter, the "Acts"). This includes ensuring that the bounds of copying and the use of materials permissible under the "fair use" doctrine and other accepted guidelines are not exceeded. Therefore, Wade College prohibits any duplication, distribution, or use of materials by faculty, staff, or students of any copyrighted material not allowed by the Acts, a license agreement, or permission of the copyright holder.

The proper use of copyright materials also extends to the electronic resources available on the Internet. The Internet hosts a wealth of information and computer users can find virtually anything from term papers to entertainment on the Internet. While many files, including music, movie, and software files, are freely available on the Internet, the unauthorized downloading of copyrighted material (including peer-to-peer file sharing) may well constitute copyright infringement if done without the permission of the copyright holder. Therefore, any faculty, staff, or student using Wade College computer and network resources agrees to abide by this copyright policy.

Any violation of this policy will be referred to the Office of the President for review and may be subject to civil remedies and criminal penalties as defined in Title 17 of the U.S. Code. Students who infringe a copyright may be subject to disciplinary action ranging in severity from a warning up to and including expulsion from the college. Employees may be subject to disciplinary action ranging in severity from a warning up to and including termination of employment (see PENALTY FOR COPYRIGHT INFRINGEMENT).

This manual contains Wade College policies and guidelines concerning the duplication, distribution, and use of copyrighted materials. It is the responsibility of every student, faculty, and staff member to become familiar with, and adhere to, these policies and guidelines.

ADMINISTRATIVE RESPONSIBILITY

The Director of Institutional Support, Vice-President of Education, Director of Academic and Student Affairs, and the President of the college shall be responsible for directing the implementation of the copyright policies in this manual within their respective areas of administrative authority.

These policies shall be reviewed by the above-mentioned administrators on a yearly basis to review their efficacy and maintain compliance with ever-changing copyright laws and keep pace with the vast number of advancements being made in the realm of electronic availability. In order to retain necessary flexibility in the administration of policies, Wade College reserves the right to interpret, revise, or delete any of the provisions of this manual or any of its policies, as the college deems appropriate in its discretion.

WADE COLLEGE COPYRIGHT MANUAL

This *Wade College Copyright Manual* [hereinafter, *"*Manual*"*], including the various copyright policies incorporated into the document, shall be maintained electronically by the Director of Institutional Support. The Manual (in electronic format), in addition to other college publications, including but not limited to the *Wade College Catalog* and *Student Handbook*, shall be given to prospective students upon request and incoming students during the *Introduction to the Wade College Experience* course. New faculty and staff members will receive this publication in addition to various college publications, including but not limited to the *Wade College Catalog*, *Faculty Handbook*, and *Policy Handbook* during their initial trimester of employment. The Manual will be available electronically via the Wade College Website in its entirety. Copies of the Manual may be printed at the discretion of individual student, faculty, and staff member. Notice of availability of revisions and their locations will be distributed to all faculty, staff, and students via the Wade College email system.

COPYRIGHT NOTICE

All departments are responsible for posting the following notice on all devices which may be used for duplication of copyrighted materials, e.g. departmental photocopiers, scanners, video recorders:

> NOTICE:
> THE COPYRIGHT LAW OF THE UNITED STATES (TITLE 17 U.S. CODE) GOVERNS THE MAKING OF PHOTOCOPIES OR OTHER REPRODUCTIONS OF COPYRIGHTED MATERIAL. THE PERSON USING THIS EQUIPMENT IS LIABLE FOR ANY INFRINGEMENT.

COPYRIGHT PERMISSION

Any administrative department of Wade College providing duplication services on behalf of others shall be responsible for obtaining from the requester written documentation of the copyright owner's permission to duplicate the material, or certification from the requester that the material is not subject to copyright permission requirements. The requester may attempt to obtain permission directly or may seek permission through Office of the President as appropriate to the material.

TECHNOLOGY-BASED DETERRENT

To satisfy the requirement of using technology-based deterrents to reduce illegal file sharing, Wade College employs the various methods listed below:

A. Constant traffic monitoring of the Wade College network system;

B. The use of antivirus software to block malicious applications including but not limited to peer-to-peer file sharing, spam, and malware; and

C. The use of a firewall to block intrusions, viruses, malware, spam, and other various activities.

Wade College continues to search for new and improved methods of monitoring the network resources of the college. With that said, Wade College reserves the right to change these methods on an as needed basis and will revise the appropriate publications accordingly.

PENALTIES FOR COPYRIGHT INFRINGEMENT

Wade College policy prohibits the use of campus systems and services to violate copyright laws and will utilize a wide range of disciplinary measures to discipline users found in violation of the policies regarding copyrighted materials and use of the Internet. Violating users will be subject to the full range of civil and criminal penalties. **Wade College assumes no responsibility for the unlawful actions of its faculty, staff, or students regarding copyright infringement issues. Therefore, any legal fees associated with the act of copyright infringement are solely the responsibility of the individual(s) committing the act.**

In general, under federal law, any person found to have infringed upon a copyrighted work may be liable for either actual damages or statutory damages not less than $750.00 and not more than $30,000.00 per work infringed.

For “willful” infringement, a court may award up to $150,000.00 per work infringed. A court can, in its discretion, also assess costs and attorneys’ fees. Willful copyright infringement can also result in criminal penalties, including imprisonment of up to five years and fines of up to $250,000.00 per offense. For more details, see *Title 17 U. S. Code, Sections 504 and 505*.

A. Faculty and Staff

Employees of Wade College must adhere to the copyright policies and guidelines provided with this Manual. Any employee who infringes a copyright will be required to meet with the Vice-President of Education for a disciplinary meeting. After a thorough investigation of the incident, the employee may be subject to:

1. Disciplinary action ranging in severity from a warning up to and including termination of employment; and/or
2. Termination of network access; and/or
3. Civil and criminal penalties.

B. Students

All students who are part of the Wade College community must adhere to the policies and requirements as set forth in this Manual. Any student who infringes a copyright will be required to meet with the Disciplinary Committee in accordance with the “Standards of Conduct” as set forth in the *Wade College Student Handbook*. After a thorough investigation of the incident, the student may be subject to:

1. Disciplinary action ranging in severity from a warning up to and including expulsion from the college; and/or
2. Termination of network access; and/or
3. Civil and criminal penalties.

COPYRIGHT INFRINGEMENT REPORTING

To report copyright infringements on Wade College's website, please notify:

Harry Davros, President
Wade College
1950 Stemmons Freeway, Suite 4080
LB #562
Dallas, TX 75287
Tel: (214) 637-3530
(800) 624-4850
Fax: (214) 637-0827
Email: hdavros@wadecollege.edu

DEFINITIONS

Anthology / Collective work / Compilation: a work which is comprised of a number of contributions, which may be separate and independent works themselves, assembled into a whole. In the educational context, the anthology need not be bound together or distributed all at one time, but may be distributed throughout the semester.

Archival Copy: an original or copy of an original, kept in a restricted area, to be used as determined by the contract or license with the copyright owner. Usually refers to computer software and audio/video recordings.

Classroom: place in which face-to-face teaching takes place, and by extension, the institution's library. A computer lab, or meeting space may be a classroom, provided the group assembled is actually for instruction and a professor is present.

Copyright: a federal right owned by every author of a work to exclude others from doing any of the following activities in regard to the work: reproduction (copying), distribution, modification, public performance, and public display. To be entitled to copyright protection, a work must be original, have some modicum of originality, and be fixed in a tangible form.

Duplication: reproducing (copying) material by any means including, but not limited to, writing, typing, photocopying, scanning, facsimile, and video or audio recording.

Face-to-Face Teaching: an educator engaged in an instructional activity. The activity must take place in a classroom, must be part of systematic instruction, and the class must be comprised of registered students and/or faculty and professional staff.

Fair Use: the right to reasonably use copyrighted materials without consent of the copyright owner, usually for scholarship, teaching, research, or criticism.

There are four factors to consider in determining whether a particular "use" is "fair:"

1. "The purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;
2. The nature of the copyrighted work;
3. The amount and substantiality of the portion used in relation to the copyrighted work; and
4. The effect of the use upon the potential market for or value of the copyrighted work."

Multimedia: a production involving more than one media (i.e. a combination of text, pictures, graphics, film clips, sound, etc.).

Off-Air Videotaping: taping programs broadcast over channels normally received free (e.g. with a normal antenna). This does not include programs only received by cable or satellite.

Public Domain: works which are not protected by copyright or works created by the federal government or a state government.

Public Performance: open to the public, or open to a group outside the normal circle of family or social acquaintances. For example, a film advertised to the general public on campus is a public performance and requires licensing.

PHOTOCOPYING COPYRIGHT POLICY

All faculty, staff, and students of Wade College are required to comply with the Acts as it pertains to the duplication, distribution, and use of printed materials. The following guidelines are provided to assist you with this requirement:

A. Only copyrighted materials are subject to the restrictions in this policy statement. Non-copyrighted materials may be photocopied freely and without restriction. Because a copyright notice is not required for copyright protection of works published on or after March 1, 1989, most works should be presumed to be copyright protected, unless further information from the copyright holder or express notice reveals that the copyright holder intends the work to be in the public domain or it is authored by the United States.

B. Copyrighted materials may be photocopied without the copyright owner's permission where such copying constitutes "fair use" under the *Copyright Act of 1976*. Copying is "fair use" to the extent it is permitted by the guidelines set forth in **Appendix A**. In some cases, copying not within the guidelines of **Appendix A** may nevertheless constitute **"**fair use;" however, before proceeding on that assumption, the Director of Institutional Support should request the advice of the Copyright Clearance Center.

C. In order to photocopy materials where (1) copying is not "fair use," (2) advice of the Copyright Clearance Center has not been sought, and (3) copying extends beyond the boundaries of the Guidelines in **Appendix A**, permission should be obtained from the copyright owner. The information in **Appendix B** may be helpful in obtaining such permission, and the copyright permission request described there should be used.

D. The Wade College Library may request from another library not more than five copies from any one periodical title published less than five years previously, i.e., during one calendar year, five articles can be copied from one periodical title published within the last five years. When requesting further articles from that periodical published within that time period, those articles must be purchased by the Wade College Library directly from the publisher or from a vendor who has copyright clearance to provide those articles. An alternative is to pay royalty fees to the Copyright Clearance Center. The fees are paid by the Wade College Library. Written records are kept for the time period.

E. For educational uses of copyrighted printed music material, see the "fair use" standards described in **Appendix D.**

F. Copyrighted print materials may be placed on reserve in the Wade College Library in their original format. Photocopies of print materials may be placed on reserve provided that the college owns the original (e.g. a subscription, book). Permission does not need to be obtained in order to place these photocopies on reserve for successive semesters. If the Wade College Library does not own an original, a photocopy may be placed on reserve only once. Successive use of the photocopy requires permission from the copyright holder.

AUDIO/VISUAL COPYRIGHT POLICY

Producers and distributors of motion pictures, audio recordings, and videotapes are also protected by the Acts. The "fair use" provision in the Acts resulted in a consensus among producers, distributors, educators, and lawyers concerning the recording, retention, and use of television programs by educational institutions. Wade College adheres to the following guidelines:

AUDIO/VISUAL, FILMS, AND VIDEO

Off-Air Videotaping

- A professor may record or request to be recorded an off-air broadcast transmission or cable retransmission (See **Appendix H**, **Request for Audio/Visual Services**), and retain it for 45 calendar days after the date of recording. This is to allow time to preview and consider license or purchase of rights.
- A professor must request that a program be recorded; programs cannot be recorded in anticipation of a request.
- The broadcast must be taped for a specific class, not "just in case."
- During the first ten school days of that 45 calendar-day period the program may be used once for instruction and once for instructional review or reinforcement.
- At the end of 45 calendar days, the program must be licensed or erased.
- A professor may place the videotape on reserve, but only for the first 10 consecutive school days after it is taped.
- Off-air videotapes cannot be added to the Wade College Library collection without licensing.
- Off-air recordings need not be used in their entirety, but they may not be altered (edited), and they must include copyright notice as recorded.

- Off-air videotapes cannot be shared with another professor; however, a limited number of copies may be made from each off-air recording to meet legitimate teaching needs. For example, if several professors request tapes of the same program, duplicate copies are permitted to fulfill their requests. This is not a duplication license. All copies are subject to the same restrictions as the original.

College Rented or Purchased Films and Video

- The law makes a distinction between classroom use and public performance. Short films, feature films, and films released on videotape may be used in the classroom or for instructional purposes. Even programs purchased or rented with the caveat "home use only," may be used in face-to-face teaching activities. Such programs may not be used as part of a public performance without licensing.
- College facilities and equipment cannot be used to show media that have not been legally obtained for classroom or public showings. Videos rented from a local video store do not constitute legally obtained copies for public performances. It is permissible to use these videos for classroom showings.
- A videotape may be a compilation of several different videos, not including off-air recordings, or may contain a portion of another video; however it may only be used two times within ten days, after which copyright permission must be sought to reuse the tape.

A. Rented Media
   - Media must be rented for specific purposes. If a film is to be open to more than just registered students, faculty, and professional staff, it must be rented for a public performance which allows for advertising to the general public and an audience other than a face-to-face teaching situation.
   - If a second showing will be scheduled for students who are not able to attend the original showing, that second showing must be arranged when the film is ordered and made a part of the film or video rental contract. Many companies charge an extra fee to show a film or video a second time, even if it is for a student in the original class.
   - Rented material cannot be placed on reserve at the Wade College Library.

B. Purchased Media
   - In an emergency, a videotape may be duplicated to replace a purchased copy which is lost or damaged. However, a purchased replacement copy must be substituted in due course.
   - Some films and videos owned by the Wade College Library are purchased with public performance rights. Check with the Wade College Library to determine license status before planning a program.

C. Personally Purchased or Personally Owned Copies
   - Videos purchased by an individual may be used in a classroom, but cannot be used for a public performance unless those rights are obtained.
   - Off-air videotaping guidelines apply to videos recorded by an individual.
   - Archival copies cannot be made without permission.

RECORDING OF CAMPUS EVENTS

A. Permissions

Permission to record presentations by registered students, faculty, and staff is assumed if the recording is to be used for archival or classroom use only. Written permission of the presenter or sponsor is required for presentations made by any other individual or group regardless of the recording's purpose (see **Appendix I**). If a presentation by an outside individual or group contains copyrighted material, the guidelines below also apply.

B. Archival Copies

One archival copy of non-classroom events using copyrighted materials may be produced if the presenter has provided appropriate evidence that clearance to use these materials has been obtained from the copyright holder.

C. Non-Archival Copies

Non-archival copies of presentations, whether by students, faculty, or staff, or by outside presenters may only be produced if written permission allowing the duplication of the material has been obtained in advance from all copyright holders. For example, it may be necessary to obtain permission from the author, publisher, and director of a play.

AUDIOVISUAL PRODUCTION WORK

A. Using Existing Footage

Existing video footage may be incorporated into a video being produced by a student or faculty member for a class project or educational program if the borrowed material does not constitute more than 10% of the original or does not comprise the majority of the student's finished class project.

B. Using Pre-Recorded Music
The Wade College Library has a supply of licensed pre-recorded music that may be used in video production. Other music may be used only if a "video synchronization license" is purchased from the music publisher or owner of the copyright.

C. Copying Tapes
No media carrying copyright will be duplicated by the Wade College Library or any other department without the written consent of the publisher or copyright owner.

PERFORMED MUSIC COPYRIGHT POLICY

A. Use of Music

- Music encompasses a number of different licensing rights. Procedures and policies for obtaining rights to use a musical composition are well established, and it is usually clear who owns the rights being sought. However, negotiations are normally necessary with several different parties to obtain all needed rights for use as multimedia content.

- A mechanical license is needed for the right to make and distribute records, tapes, compact discs, or other material objects in which a recording of a musical composition is embodied. This license is authorization only from the composer of the work, not the performer. A compulsory mechanical license is generally available under the Acts.

- A synchronization license is needed to authorize the synchronization of a musical composition with visual images of a multimedia work. No compulsory license is available for this right. Rights must be obtained through a music licensing agency. Most synchronization licenses limit the number of seconds the composition can be used in a work. Because multimedia works are not sequential, a composition could be played many times in a given use.

- Another exclusive right of the owner of a musical composition is to control public performances. Producers of a multimedia product should make sure that any copyrighted music included in their product is covered by a proper licensed authority.

- A master recording license is needed for the right to use a particular performance of a specific artist of the underlying composition. No compulsory license is available for this right.

Guidelines for the “fair use” of performed and printed music may be found in **Appendix D.**

B. Replacement Copies
It is Wade College policy that an immediate order for the purchase of replacement copies is to be placed on a one-for-one basis, and all reproduced copies of the musical work are to be destroyed upon receipt of the ordered copies. Any other method of calculating the number of replacement copies to be ordered, such as an inventory taken after the performance, is unacceptable. It is expected that staff and faculty routinely involved with performances will emphasize planning procedures so as to avoid use of emergency duplication on a routine basis.

MULTIMEDIA AND INTERNET COPYRIGHT POLICY

All members of the Wade College community utilizing college computers and the campus network must comply with federal copyright law. These guidelines are intended to assist in understanding and complying with copyright law as it applies to the use of multimedia and the Internet. The law and these guidelines may change as the U.S. Congress, the courts, and national interest groups address these issues.

As with all copyrighted materials, the principles of “fair use” apply. Once these tests have been satisfied, an additional set of guidelines with respect to allowances and restrictions must be met. These guidelines may be found in **Appendix G**.

The *Digital Millennium Copyright Act* (DMCA) was signed into law on October 28, 1998 in an attempt to address copyright related issues that were not clearly covered in the *United States Copyright Act of 1976*, including those related to the presentation of materials via digitally stored and produced materials and presentations on the Internet. The DMCA did not

provide clear rules on "fair use" other than to clarify that use of materials followed existing copyright law. It called for a study and recommendations to U.S. Congress by the Copyright Office within two years regarding further changes to the *United States Copyright Act of 1976*. The guidelines below are meant to assist one in making responsible decisions regarding how to include various materials in multimedia presentations and on the Internet.

A. Use of Multimedia

The use of multimedia (sounds, images, text, data, etc.) within face-to-face teaching is normally subject to all the restrictions and covenants of the copyright law. However, just as many interested parties gathered and agreed upon "fair use" guidelines for traditional media some years ago, a similar set of guidelines has been developed for the use of multimedia in presentations. These guidelines are presented in **Appendix G**. There continues to be significant discussion regarding the restrictive nature of these guidelines and many organizations have refused to adopt them. However, extending beyond these limitations, accepted by the U.S. Congress, could lead to legal challenges.

B. Use of the Internet

Copyright law applies to materials found or posted on the Internet to the same extent that it applies to material found in more traditional formats. There are additional considerations specific to the Internet which must be considered. Many of these considerations are provided below to assist in making prudent decisions.

1. Use of Copyrighted Material
   - A work may be protected by copyright even if published without a copyright notice.
   - Copyright arises automatically as soon as some aspect of a protectable work has been fixed in a tangible medium (such as an Internet server). Notice is not required; registration is required only if the work originates in the United States and legal action is desired.
   - Written permission must be obtained to use copyrighted material on the Internet, and the user must be able to produce a copy of that permission at the request of the Office of the President.
   - Any media displayed on the Internet as part of a web page and accessible outside the Wade College community is considered to be a public performance except when defined as "fair use."
2. Use of Links on Internet Sites
   - A site's existence on the Internet gives implied permission to link to that site.
   - The owner of a page that is linked to has the right to demand that the link be removed.
   - A list of links created by someone else may be copyrightable under a compilation copyright; therefore, a list of links may not be copied in its entirety to an Internet site. A link, however, may be made to that list of links.

C. Use of Images

- Scanned images cannot be used without written permission (see Use of Copyrighted Material, above), except as noted in "fair use" guidelines.
- Computer readable images copied from other Internet sites should be considered copyrighted.
- Photographs taken of individuals must be accompanied by a photography release (see **Appendix E** and **Appendix F**).
- A link may be made to an image on another site.

D. Use of Video Clips

- Films and related works are loosely divided into motion pictures and other films. Film libraries other than commercial motion pictures often have fee schedules for traditional uses of content. The problem is that multimedia products generally do not fit into traditional uses. Thus, special negotiations may be required to cover the exact usage in a multimedia product.
- The use of commercial motion picture footage is more complicated and expensive, assuming that rights can be

acquired at all. A film distributor probably does not have the authority to grant multimedia content rights but could be helpful in identifying who has such authority. Use of any music rights, names and likenesses of actors/actresses in such content will require separate authorizations and payment of additional fees. Multimedia content use is not likely to be part of a normal fee schedule so fees will probably have to be individually negotiated.

E. Use of Music—See the **PERFORMED MUSIC COPYRIGHT POLICY**.

SOFTWARE COPYRIGHT POLICY

Wade College endorses and enforces the *United States Copyright Act of 1976* as amended, which pertains to computer software as well as printed materials, and the college interprets the *United States Copyright Act of 1976* as follows:

The unauthorized duplication of any software which is licensed or protected by copyright is theft, and thus unethical.

Failure to observe software copyrights and/or license agreements may result in disciplinary action by this institution and/or legal action by the copyright owner.

No college-owned computing resources may be used for unauthorized commercial purposes.

Respect for the intellectual work and property of others has traditionally been essential to the mission of colleges and universities. Wade College does not tolerate plagiarism and does not condone the unauthorized duplication of software applications, databases and code.

LEGAL ALTERNATIVES

Wade College endeavors to provide its community with information about numerous legal sources of music, videos, books, and other copyrighted materials. The college will continue to locate and provide to the community additional sources for obtaining copyrighted material in a legal fashion and will post this information through various media.

Educause has compiled a website that references sources of legal alternative for downloading media content. This information can be found at http://www.educause.edu/legalcontent.

The recording industry also publishes a website which includes pointers to sources of legal music on the Internet. This information can be found at http://www.riaa.com/toolsforparents.php?content_selector=legal-music-services.

The following websites provide additional helpful resources for various types of electronic media:

A. http://www.respectcopyrights.org/ created by the Motion Picture Association of America;

B. www.riaa.com created by the Recording Industry of America (RIAA); and

C. http://www.mpaa.org/ created by the Motion Picture Association of America (MPAA).

APPENDIX A
GUIDELINES FOR CLASSROOM DUPLICATION OF BOOKS AND PERIODICALS

These guidelines are an adaptation of the actual duplication guidelines agreed to by *the Association of American Publishers* and *The Author's League of America* with minor editorial changes. Their purpose is to state the minimum standards of educational "fair use" for photocopying of written materials under Section 107 of the *United States Copyright Act of 1976* as amended.

I. Single Copying for Teachers
A single copy may be made of any of the following or any part thereof, by or for any faculty or staff member at his or her individual request:

A. A chapter from a book;
B. An article from a periodical or newspaper;
C. A short story, short essay, or short poem, whether or not from a collective work; or
D. A chart, graph, diagram, drawing, cartoon, or picture from a book, periodical, or newspaper.

II. Multiple Copies for Classroom Use
Multiple copies (not to exceed in any event more than one copy per student in a course) may be made by or for the faculty giving the course for classroom use or discussion, provided that:

A. The copying meets the following tests of brevity and spontaneity:
1. Brevity
a. Poetry
1) A complete poem if less than 250 words and if printed on not more than two pages or
2) An excerpt of not more than 250 words from a longer poem.

b. Prose
1) All or any portion of a complete article, story or essay of 2,500 words or less, or
2) An excerpt from any prose work of not more than 1,000 words or 10% of the work, whichever is less, but in any event a minimum of 500 words.

Each of the numerical limits stated in a) and b) above may be expanded to permit the completion of an unfinished line of a poem or of an unfinished prose paragraph.

c. Illustration
One chart, graph, diagram, drawing, cartoon, or picture per book or per periodical issue.

d. "Special" works
Certain works in poetry, prose, or "poetic prose" which often combine language with illustrations and which are intended sometimes for children and at other times for a more general audience fall short of 2,500 words in their entirety. Paragraph b) above notwithstanding, such "special works" may not be reproduced in their entirety; however, an excerpt comprising not more than two of the published pages of such special work and containing not more than 10% of the words found in text thereof may be reproduced.

2. Spontaneity
a. The copying is at the instance and inspiration of the individual teacher, and

b. The inspiration and decision to use the work and the moment of its use for maximum teaching effectiveness are so close in time that it would be unreasonable to expect a timely reply to a request for permission.

B. The copying meets the following *cumulative effect* test:
1. The copying of the material is for only one course in the college in which the copies are made.

2. Not more than one short poem, article, story, or essay or two excerpts may be copied from the same author, nor more than three from the same collective work or periodical volume during one class term.

3. There should not be more than nine instances of such multiple copying for one course during one class term.

The limitations stated in 2. and 3. above shall not apply to current news periodicals and newspapers and current news sections of other periodicals.

C. Each copy includes a notice of copyright.

III. Prohibitions as to I and II above
Notwithstanding any of the above, the following shall be prohibited:

A. Copying may not be used to create or to replace or substitute for anthologies, compilations, or collective works. Whether copies of various works or excerpts are distributed as a pack or individually throughout a class term, their duplication and distribution are still considered a prohibited replacement or substitution.

B. There shall be no copying of or from works intended to be "consumable" in the course of study or of teaching. These include workbooks, exercises, standardized tests, and test booklets and answer sheets.

C. Copying may not:
1. Substitute for the purchase of books, publisher's reprints or periodicals;

2. Be directed by higher authority; or

3. Be repeated with respect to the same item by the same teacher from term-to-term.

D. No charge may be made to the student beyond the actual cost of duplication, which may include the cost of royalty fees and the labor, materials, and facilities utilized in the duplication and distribution of the copies.

APPENDIX B
PERMISSION REQUEST FOR DUPLICATION OF PRINT MATERIAL

When the duplication of copyrighted print material is not within the guidelines set out in the *Wade College Copyright Manual* or when permission has not been received from the Copyright Clearance Center, staff or faculty members must request permission using the **Permission Request for Duplication of Print Material Form** in section IV below. Permission is usually sought each time the material is used, but the form can indicate all the times of anticipated use (e.g. every trimester for the next six years). The publisher or copyright holder can reserve the right to grant permission for only one time. Wade College will not duplicate copyrighted materials unless approval has been obtained.

I. Obtaining Permission by Mail or Fax Request

The request should be mailed or faxed to the permissions department of the publisher in question. If the address of the publisher does not appear at the front of the material, it may be obtained from The Literary Marketplace (for books) or Ulrich's International Periodicals (for journals), both published by the R.R. Bowker Company. Additional assistance may be obtained from the Wade College Library. For purposes of proof and to define the scope of the permission, it is important that the permission be in writing.

The process of considering permission requests requires time for the publisher to check the status and ownership of rights and related matters and to evaluate the request. It is advisable, therefore, to allow sufficient lead-time. In some instances the publisher may assess a fee for permission, which may either be passed on to students who receive copies of the duplicated material or be paid by the requesting department as an ordinary expense.

II. Obtaining Permission by Telephone

If occasional time exigencies obviate the usefulness of the prior request letter, then the infrequent use of telephone permissions is acceptable. The person receiving permission should obtain the name of the person authorizing duplication; make notes concerning the time and date of the call, the person authorizing duplication, and the extent of the permission granted; and request and obtain a follow-up permission letter from the copyright proprietor.

III. Records

When duplication of copyrighted print materials is not within the guidelines and the duplication is done by the Wade College Library or another administrative department, the person requesting the duplication will need to provide a copy of the approved **Permission Request for Duplication of Print Material Form**. The Wade College Library or other administrative department will retain a copy of these forms for three years or for as long as the permission is granted.

IV. Permission Request for Duplication of Print Material Form

The form on the following page must be completed prior to duplication of copyrighted print materials.

APPENDIX C
GUIDELINES FOR COPYRIGHTED MUSIC MATERIAL

These guidelines are an adaptation of the actual guidelines prepared in 1975 by a task force made up of representatives of the *Music Educators National Conference*, the *Music Publishers' Association of the United States*, the *Music Teachers National Association*, the *National Association of Schools of Music*, and the *National Music Publishers Association*.

The purpose of the guidelines is to state the minimum and not the maximum standards of educational **"**fair use**"** under the *United States Copyright Act of 1976* and related judicial decisions.

I. Permissible Uses

A. Emergency duplication to replace purchased copies that for any reason are not available for an imminent performance, provided purchased replacement copies are substituted in due course.

B. For academic purposes other than performance, multiple copies of excerpts of works may be made, provided that the excerpts do not comprise a part of the whole which would constitute a performable unit such as a section, movement or aria, but in no case more than 10% of the whole work. The number of copies may not exceed one copy per student.

C. For academic purposes other than performance, a single copy of an entire performable unit (section, movement, aria, etc.) that is (1) confirmed by the copyright proprietor to be out of print, or (2) unavailable except in a larger work, may be made by or for a professor solely for the purpose of his or her scholarly research or in preparation to teach class.

D. Printed copies that have been purchased may be edited or simplified, provided that the fundamental character of the work is not distorted, that the lyrics (if any) are not altered, and that no lyrics are added, if none exist.

E. A single copy of recordings of performances by students may be made for evaluation or rehearsal purposes and may be retained by the educational institution or individual professor.

F. A single copy of a sound recording (such as a tape, disc or cassette) of copyrighted music may be made from sound recordings owned by an educational institution or an individual professor for the purpose of constructing aural exercises or examinations and may be retained by the educational institution or individual professor (This permitted copying pertains only to the copyright of the music itself and not to any copyright which may exist in the sound recording.).

II. Prohibitions

A. Copying to create or to replace or substitute for anthologies, compilations or collective works.

B. Copying of or from works intended to be "consumable" in the course of study or of teaching such as workbooks, exercises, standardized tests and answer sheets and like material.

C. Copying for the purpose of performance, except as in I.A. above.

D. Copying for the purpose of substituting for the purchase of music, except as in I.B. and I.C. above.

E. Copying without inclusion of the copyright notice which appears on the printed copy.

APPENDIX D
GUIDELINES FOR PHOTOGRAPHY REPRODUCTION

Model releases are important to avoid lawsuits. A signed photography release is needed to indicate the person being photographed has given consent to the use of the image. The purpose of the release is to protect the photographer and the college against an invasion-of-privacy lawsuit.

Permission to reproduce an individual's image in a printed or electronic medium is needed even if the subject was photographed for a very specific assignment.

The **Photography Release Form** on the following page must be completed and maintained on file for all individuals whose picture is to be published in any form.

APPENDIX E
FAIR USE GUIDELINES FOR EDUCATIONAL MULTIMEDIA

INTRODUCTION

1. Preamble

"Fair use" is a legal principle that defines the limitations on the exclusive rights of copyright holders. The purpose of these guidelines is to provide guidance on the application of "fair use" principles by educators, scholars, and students who develop multimedia projects using portions of copyrighted works under "fair use" rather than by seeking authorization for non-commercial educational uses. These guidelines apply only to "fair use" in the context of copyright and to no other rights.

There is no simple test to determine what is "fair use." Section 107 of the *United States Copyright Act of 1976* sets forth the four "fair use" factors which should be considered in each instance, based on particular facts of a given case, to determine whether a use is a "fair use:"

1) The purpose and character of use, including whether such use is of a commercial nature or is for nonprofit educational purposes;

2) The nature of the copyrighted work;

3) The amount and substantiality of the portion used in relation to the copyrighted work as a whole; and

4) The effect of the use upon the potential market for or value of the copyrighted work.

While only the courts can authoritatively determine whether a particular use is "fair use," these guidelines represent the endorsers' consensus of conditions under which "fair use" should generally apply and examples of when permission is required. Uses that exceed these guidelines may or may not be "fair use." The participants also agree that the more one exceeds these guidelines, the greater the risk that "fair use" does not apply.

The limitations and conditions set forth in these guidelines do not apply to works in the public domain—such as United States or Texas State Government works or works on which copyright has expired for which there are no copyright restrictions—or to works for which the individual or institution has obtained permission for the particular use. Also, license agreements may govern the uses of some works and users should refer to the applicable license terms for guidance.

The participants who developed these guidelines met for an extended period of time and the result represents their collective understanding in this complex area. Because digital technology is in a dynamic phase, there may come a time when it is necessary to review the guidelines. Nothing in these guidelines shall be construed to apply to the "fair use" privilege in any context outside of educational and scholarly uses of educational multimedia projects.

This Preamble is an integral part of these guidelines and should be included whenever the guidelines are reprinted or adopted by organizations and educational institutions. Users are encouraged to reproduce and distribute these guidelines freely without permission; no copyright protection of these guidelines is claimed by any person or entity.

These guidelines shall not be read to supersede other preexisting education "fair use" guidelines that deal with the *United States Copyright Act of 1976*. [See Section 106 of the *United States Copyright Act of 1976*]. The *United States Copyright Act of 1976*, as amended, is codified at 17 U.S.C. Sec.101 et seq. guidelines and clearly indicates the variety of interest groups involved, both from the standpoint of the users of copyrighted material and also from the standpoint of the copyright owners.

1.1 Background

These guidelines clarify the application of "fair use" of copyrighted works as teaching methods are adapted to new learning environments. Educators have traditionally brought copyrighted books, videos, slides, sound recordings, and other media into the classroom, along with accompanying projection and playback equipment. Multimedia creators integrated these individual instructional resources with their own original works in a meaningful way, providing compact

educational tools that allow great flexibility in teaching and learning. Material is stored so that it may be retrieved in a nonlinear fashion, depending on the needs or interests of learners. Educators can use multimedia projects to respond spontaneously to students' questions by referring quickly to relevant portions. In addition, students can use multimedia projects to pursue independent study according to their needs or at a pace appropriate to their capabilities. Educators and students want guidance about the application of "fair use" principles when creating their own multimedia projects to meet specific instructional objectives.

1.2 Applicability of These Guidelines

These guidelines apply to the use, without permission, of portions of lawfully acquired copyrighted works in educational multimedia projects which are created by educators or students as part of a systematic learning activity by educational institutions. Educational multimedia projects created under these guidelines incorporate students' or educators' original material, such as course notes or commentary, together with various copyrighted media formats including but not limited to, motion media, music, text material, graphics, illustrations, photographs, and digital software which are combined into an integrated presentation.

Educational institutions focus on supporting research and instructional activities of educators and students for noncommercial purposes.

For the purposes of the guidelines, educators include faculty, teachers, instructors, and others who engage in scholarly, research and instructional activities for educational institutions. The copyrighted works used under these guidelines are lawfully acquired if obtained by the institution or individual through lawful means such as purchase, gift or license agreement but not pirated copies. Educational multimedia projects which incorporate portions of copyrighted works under these guidelines may be used only for educational purposes in systematic learning activities including use in connection with non-commercial curriculum-based learning and teaching activities by educators to students enrolled in courses at educational institutions or otherwise permitted under Section 3, below. While these guidelines refer to the creation and use of educational multimedia projects, readers are advised that in some instances other "fair use" guidelines such as those for off-air taping may be relevant.

2. PREPARATION OF EDUCATIONAL MULTIMEDIA PROJECTS USING PORTIONS OF COPYRIGHTED WORKS

2.1 By students

Students may incorporate portions of lawfully acquired copyrighted works when producing their own educational multimedia projects for a specific course.

2.2 By Educators for Curriculum-Based Instruction

Educators may incorporate portions of lawfully acquired copyrighted works when producing their own educational multimedia programs for their own teaching tools in support of curriculum-based instructional activities at educational institutions.

3. PERMITTED USES OF EDUCATIONAL MULTIMEDIA PROGRAMS CREATED UNDER THESE GUIDELINES

3.1 Student Use

Students may perform and display their own educational multimedia projects created under Section 2 of these guidelines for educational uses in the course for which they were created and may use them in their own portfolios as examples of their academic work for later personal uses such as job and graduate school interviews

3.2 Educator Use for Curriculum-Based Instruction

Educators may perform and display their own educational multimedia projects created under Section 2 for curriculum-based instruction to students in the following situations:

1) For face-to-face instruction;

2) Assigned to students for directed self-study; and/or

3) For remote instruction to students enrolled in curriculum-based courses and located at remote sites, provided over the educational institution's secure electronic network in real¬time, or for after class review or directed self-study,

provided there are technological limitations on access to the network and educational multimedia project (such as a password or PIN) and provided further that the technology prevents the making of copies of copyrighted material.

If the educational institution's network or technology used to access the educational multimedia project created under Section 2 of these guidelines cannot prevent duplication of copyrighted material, students or educators may use the educational multimedia projects over an otherwise secure network for a period of only 15 days after its initial real-time remote use in the course of instruction or 15 days after its assignment for directed self-study. After that period, one of the two use copies of the educational multimedia project may be placed on reserve in a learning resource center, library or similar facility for on-site use by students enrolled in the course. Students shall be advised that they are not permitted to make their own copies of the multimedia project.

3.3 Educator Use for Peer Conferences

Educators may perform or display their own multimedia projects created under Section 2 of these guidelines in presentations to their peers, for example, at workshops and conferences.

3.4 Educator Use for Professional Portfolio

Educators may retain educational multimedia projects created under Section 2 of these guidelines in their personal portfolios for later personal uses such as job interviews.

4. LIMITATIONS: TIME, PORTION, AND COPYING AND DISTRIBUTION

The preparation of educational multimedia projects incorporating copyrighted works under Section 2, and the use of such projects under Section 3, are subject to the limitations noted below.

4.1 Time Limitations

Educators may use their educational multimedia projects created for educational purposes under Section 2 of these guidelines for teaching courses, for a period of up to two years after the first instructional use with a class. Use beyond that time period, even for educational purposes, requires permission for each copyrighted portion incorporated in the production. Students may use their educational multimedia projects as noted in Section 3.1.

4.2 Portion Limitations

Portion limitations mean the amount of a copyrighted work that can reasonably be used in educational multimedia projects under these guidelines regardless of the original medium from which the copyrighted works are taken. In the aggregate, means the total amount of copyrighted material from a single copyrighted work that is permitted to be used in an educational multimedia project without permission under these guidelines. These limits apply cumulatively to each educator's or student's multimedia project(s) for the same academic semester, cycle or term. All students should be instructed about the reasons for copyright protection and the need to follow these guidelines.

1) Motion Media
   Up to 10% or 3 minutes, whichever is less, in the aggregate of a copyrighted motion media work may be reproduced or otherwise incorporated as part of a multimedia project created under Section 2 of these guidelines.

2) Text Material
   Up to 10% or 1,000 words, whichever is less, in the aggregate of a copyrighted work consisting of text material may be reproduced or otherwise incorporated as part of a multimedia project created under Section 2 of these guidelines. An entire poem of less than 250 words may be used, but no more than three poems by one poet, or five poems by different poets from any anthology may be used. For poems of greater length, 250 words may be used but no more than three excerpts by a poet, or five excerpts by different poets from a single anthology may be used.

3) Music, Lyrics, and Music Video
   Up to 10%, but in no event more than 30 seconds, of the music and lyrics from an individual musical work (or in the aggregate of extracts from an individual work), whether the musical work is embodied in copies, or audio or audiovisual works, may be reproduced or otherwise incorporated as a part of a multimedia project created under Section 2. Any alterations to a musical work shall not change the basic melody or the fundamental character of the work.

4) Illustrations and Photographs
The reproduction or incorporation of photographs and illustrations is more difficult to define with regard to "fair use" because "fair use" usually precludes the use of an entire work. Under these guidelines a photograph or illustration may be used in its entirety but no more than five images by an artist or photographer may be reproduced or otherwise incorporated as part of an educational multimedia project created under Section 2. When using photographs and illustrations from a published collective work, not more than 10% or 15 images, whichever is less, may be reproduced or otherwise incorporated as part of an educational multimedia project created under Section 2.

5) Numerical Data Sets
Up to 10% or 2,500 fields or cell entries, whichever is less, from a copyrighted database or data table may be reproduced or otherwise incorporated as part of an educational multimedia project created under Section 2 of these guidelines. A field entry is defined as a specific item of information, such as a name or Social Security Number, in a record of a database file. A cell entry is defined as the intersection where a row and a column meet on a spreadsheet.

4.3 Copying and Distribution Limitations

Only a limited number of copies, including the original, may be made of an educator's educational multimedia project. For all of the uses permitted by Section 3, there may be no more than two use copies only one of which may be placed on reserve as described in Section 3.2.3. An additional copy may be made for preservation purposes but may only be used or copied to replace a use copy that has been lost, stolen, or damaged. In the case of a jointly created educational multimedia project, each principal creator may retain one copy but only for the purposes described in Sections 3.3 and 3.4 for educators and Section 3.1 for students.

5. EXAMPLES OF WHEN PERMISSION IS REQUIRED

5.1 Using Multimedia Projects for Non-Educational or Commercial Purposes

Educators and students must seek individual permissions (licenses) before using copyrighted works in educational multimedia projects for commercial reproduction and distribution.

5.2 Duplication of Multimedia Projects Beyond Limitations Listed in These Guidelines

Even for educational uses, educators and students must seek individual permissions for all copyrighted works incorporated in their personally created educational multimedia projects before replicating or distributing beyond the limitations listed in Section 4.3.

5.3 Distribution of Multimedia Projects Beyond Limitations Listed in These Guidelines

Educators and students may not use their personally created educational multimedia projects over electronic networks, except for uses as described in Section 3.2.3, without obtaining permissions for all copyrighted works incorporated in the program.

6. IMPORTANT REMINDERS

6.1 Caution in Downloading Material from the Internet

Educators and students are advised to exercise caution in using digital material downloaded from the Internet in producing their own educational multimedia projects, because there is a mix of works protected by copyright and works in the public domain on the network. Access to works on the Internet does not automatically mean that these can be reproduced and reused without permission or royalty payment and, furthermore, some copyrighted works may have been posted to the Internet without authorization of the copyright holder.

6.2 Attribution and Acknowledgment

Educators and students are reminded to credit the sources and display the copyright notice and copyright ownership information if this is shown in the original source, for all works incorporated as part of the educational multimedia projects prepared by educators and students, including those prepared under "fair use." Crediting the source must adequately identify the source of the work, giving a full bibliographic description where available (including author, title, publisher, and place and date of publication). The copyright ownership information includes the copyright notice (year of first publication and name of the copyright holder).

The credit and copyright notice information may be combined and shown in a separate section of the educational multimedia project (e.g. credit section) except for images incorporated into the project for the uses described in Section 3.2.3. In such cases, the copyright notice and the name of the creator of the image must be incorporated into the image when, and to the extent, such information is reasonably available; credit and copyright notice information is considered "incorporated" if it is attached to the image file and appears on the screen when the image is viewed. In those cases when displaying source credits and copyright ownership information on the screen with the image would be mutually exclusive with an instructional objective (e.g. during examinations in which the source credits and/or copyright information would be relevant to the examination questions), those images may be displayed without such information being simultaneously displayed on the screen. In such cases, this information should be linked to the image in a manner compatible with such instructional objectives.

6.3 Notice of Use Restrictions

Educators and students are advised that they must include on the opening screen of their multimedia program and any accompanying print material a notice that certain materials are included under the “fair use” exemption of the *U. S. Copyright Law of 1976* and have been prepared according to the multimedia “fair use” guidelines and are restricted from further use.

6.4 Future Uses Beyond “Fair Use”

Educators and students are advised to note that if there is a possibility that their own educational multimedia project incorporating copyrighted works under “fair use” could later result in broader dissemination, whether or not as commercial product, it is strongly recommended that they take steps to obtain permissions during the development process for all copyrighted portions rather than waiting until after completion of the project.

6.5 Integrity of Copyrighted Works: Alterations

Educators and students may make alterations in the portions of the copyrighted works they incorporate as part of an educational multimedia project only if the alterations support specific instructional objectives. Educators and students are advised to note that alterations have been made.

6.6 Reproduction or De-compilation of Copyrighted Computer Programs

Educators and students should be aware that reproduction or de-compilation of copyrighted computer programs and portions thereof, for example the transfer of underlying code or control mechanisms, even for educational uses, are outside the scope of these guidelines.

6.7 Licenses and Contracts

Educators and students should determine whether specific copyrighted works, or other data or information, are subject to a license or contract. “Fair use” and these guidelines shall not preempt or supersede licenses and contractual obligations.